

Leah Evert-Burks: This is Leah Evert-Burks with the Center for Anti-Counterfeiting and Product Protection at Michigan State University and this is Brand Protection Stories. Stories about the practice of brand protection, by those who live it. In Brand Protection Stories, we talk to those in brand protection community about particular cases in their careers. Through some stranger than fiction, real life scenarios, we learn about the practice of brand protection and the challenges faced by brand owners worldwide.

Andrew Love: If you see someone who's about to fall off a ladder, and you catch them. Yes, you do everything you can to catch them and I knew these hundreds of helmets were in the marketplace so I begged eBay, let me contact the buyers.

Leah Evert-Burks: Andrew Love of Specialized Bicycles heads up the Brand Security/Investigations team. A department he created in 2008 and now leads 14 members. In his career with Specialized, Andrew has overseen seizures of over 2 million dollars from counterfeiters, taking down online listings valued at over 32 million, a year; averaging 69 takedowns a day. In the last 2 years, cases Andrew has investigated have resulted in 18 arrests in the U.S., Spain, Italy, Colombia and Thailand. Andrew is a frequent speaker at anti-counterfeiting events, has been interviewed by major media outlets, and has testified in front of both the U.S. House of Representatives and Senate on counterfeiting legislation in 2019 and 2020. Andrew has been a guest speaker at Europol, International AntiCounterfeiting Coalition (IACC), Consero and IQPC anti-counterfeit forums. He has presented at the National Intellectual Property Rights Center international law enforcement trainings held in Mexico and Columbia, and served as faculty at the National Advocacy for Department of Justice training facility. He also writes for A-CAPP's *Brand Protection Professional*, leading the conversations in the column "A View from the Field." Andrew Love has been referred to by the NY Times as 'The cycling industry's leading anti-counterfeiting crusader' and by Bicycle Retailer and Industry News as 'the industry's Dog the Bounty Hunter.' In addition to being an avid cyclist, Andrew competed in two Olympic trials in long track speed skating and is the 3 times masters world sprint champion in that sport. Come along for the ride.

Leah Evert-Burks: Welcome, Andrew.

Andrew Love: Hey, morning Leah. How you doing today?

Leah Evert-Burks: I'm good, thank you. In thinking about the case that you'll be talking about today, it brought up a personal memory. My husband is an avid bicyclist, and years ago, he was involved in an accident on his road bike. He hit the pavement, and he hit the pavement with his head. The helmet that he was wearing, the outer casing cracked, but the roll cage internal reinforcement remained intact. And the outer casing, even though it was cracked, it protected his head. He did not suffer concussion or fractured skull, or worse. But what I was remembering, in addition to being grateful for the fact that the helmet had protected him, is he took that helmet, and he hung it in our garage right above our children's bicycles. At the time, our kids were young, they were single digits. But he took that helmet, hung it right in front of their bicycles, so that when they took out their bicycles to ride around the neighborhood, go to soccer practice, tennis lessons, it reminded them to put on their helmets, that that helmet had saved their father's life. So in thinking about your story, that came back to me even though it was so many years ago and obviously has great significance in my life.

Andrew Love: I have a helmet like that hanging in my garage as well.

Leah Evert-Burks: They're good reminders of the importance of safety equipment.

Andrew Love: Yep.

Leah Evert-Burks: The discipline of brand protection is derived out of trademark law—since counterfeiting is a violation of trademark rights – its important to remember that these are laws set up regionally throughout the world to protect the consumer. Yes, trademarks are assets of companies, but they tell the consumer the source of the goods

and provide the assurance of origin. But, brand protection isn't only the responsibility of the legal profession, it's multi-disciplinary by nature, *and* necessity. People find themselves in this field from such diverse career paths as security, supply chain, law enforcement, marketing, IT, finance and yes legal, as well as many more

Leah Evert-Burks: Andrew you came to Specialized as an athlete, as a cyclist with knowledge of the importance of safety gear such as helmets.

Andrew Love: Yeah. And one of the things I did when I first got into the horrible world of counterfeited helmets, is, I asked a question to a Facebook group that I'm part of--its the Utah Cycling Association. I'm based here at the Specialized distribution facility in Utah. And one of the questions I asked was: okay folks, how many years you've been riding, how many helmets have you owned, and how many helmets have you broken? And I got 900 responses. I had to put it into Excel spreadsheet and what I found out that the average cyclist has broken about 30% of the helmets that they've owned, and I am absolutely middle of the road for that survey. I've been riding and racing for 20 years, and I've owned 13 helmets, and I've broken three and one of them was catastrophic just like your just like your husband. So when you think about counterfeits and you think also the counterfeit helmets are all high performance helmets there that they don't counterfeit the cheap ones. They don't counterfeit even kid's helmets, they counterfeit the ones that are targeted to enthusiasts and enthusiasts ride a lot. And unfortunately, they crash. That is part of the sport and protective equipment is really important. So, and as I said, I had a helmet in my garage that is smashed just like the one hanging in yours.

Leah Evert-Burks: So we're going to talk today about the Federal Helmet Case. Tell us how that case started, how it first came to your attention, and how that may have changed the job that you're doing at Specialized.

Andrew Love: Well, the first thing is, I want to talk about something that happened a year before, I noticed this eBay account.

Leah Evert-Burks: Okay.

Andrew Love: Have you ever had a moment in your life, Leah, where you know in a few minutes that your life has changed? Something happens. And it was July 7, 2013. I was at a Specialized event. And it was a dealer event where we launch our new bikes and there's, you know, thousands of bike shop dealers and hundreds of Specialized employees were all there. It's morning. I am in the hotel room. I am doing my patrol routes on my laptop and I see the first counterfeit cycling helmets. July 7, 2013. I about fall out of my chair. I screenshot these things. I send them to our production teams, and really rapidly, we know that we have a counterfeit helmet problem. And we bought some of these, and we tried to evaluate how bad they were, and they were as bad as we suspected and fairly rapidly after that, we started seeing them popping up on social media, so we were already primed.

Leah Evert-Burks: Andrew's Federal Helmet case came at a time when safety concerns of counterfeits were elevated. Deaths had occurred due to counterfeit automobile airbags in Tennessee and elsewhere were on the mind of the public, LE and the courts. Learn more about counterfeit airbags in The Brand Protection Professional, where in the March 2021 edition we cover industry efforts in "How Honda Encouraged More Than Half of the U.S. State and Local Governments to Fight Against Counterfeit Airbags."

Andrew Love: So this was on the radar at the National IPR Center at the same time as I was seeing counterfeit helmets showing up. So, I was aware and I was fighting these things and knocking them down on eBay. The very first social media listings we ever saw of these kinds of helmets were in Mexico on Facebook, and this was happening

right at this time, so I was just waiting for someone to show up in the US. And sure enough, someone did and I spotted them by October 14 of 2013.

Leah Evert-Burks: In your investigation into this U.S. seller took some interesting turns. How, how were you able to identify who this individual was and track him down?

Andrew Love: Well, first thing I noticed when I saw him was that he'd been selling counterfeit helmets since May, but no Specialized. I spotted him the day he listed his first Specialized. He had sold hundreds and hundreds of fake a Giro and Catlike helmets. But it was pretty easy to figure out who he was. Not just because I have a decade worth of collaboration with eBay, and I worked with our investigators very closely. But when he posted his helmets, you could look in the pictures, and you could see on the mantelpiece behind it. You could see his family photos, and also in the feedback, they were people arguing with him saying, "These are fakes! What are you doing?" so it was pretty obvious he knew and pretty obvious he didn't care. And so that day, I emailed the National IPR Center, and I said "Hey look at this, this is bad news." And I filed my complaint immediately. And if you've ever worked with federal law enforcement, you know that they are like pieces of wonderful, but medieval siege equipment. It takes them a long time to put a case together. It takes them a long time to have stuff happen, but such was the public safety danger that the National IPR Center wasn't aware of. This hit the land speed record and within two weeks of my submission, there were federal agents on his doorstep, 20 of them in fact. And they had seized all his helmets, and in this time, his eBay account went down due to the complaints that many people sent about him selling fakes, and he just started another one. Popped it right back up, but it was, it was him, and I saw the second one pop up. Screenshotted. It was all the same. You could see again the mantle piece with all his photos, and at that same time, as I'm looking at this, I find his Facebook profile, his wife's Facebook profile and, you know, because it was pretty clear who he was. And so, I, my heart, I mean I'm a softy hardly, you know, I look at all this and I'm like, oh man, but he knows, and as as bad as I feel because I again when the federal agent showed up, I mean I know how it would've made me feel if you had 20 police officers show up at your doorstep. But he had sold hundreds and hundreds of fake helmets, hundreds of them. And I think of all the families that people could have been really seriously injured because if we're going to take my first thing I said that 30% of helmets get used in crashes. So, if he sold you know I don't remember off the top of my head like 240, you know, they counted so 60 people had crashes, with these things on, and they're awful, they just don't work. Our studies of the counterfeits, the CPSC test says that any helmet that in a test, the ritualized test shows a 200 pound guy from 6 feet in the air going on to his head right at the asphalt, and I'm 6 feet. I'm 200 pounds. I've done that. I've shattered helmets that way. Um, any helmet that hits over 300 G's in the test fails the test. Now why is 300 G's a line? Over 300 G's at impact force you start getting in the brain injury/death level. Real helmets keep you in the 100 G range. You're going to walk away with a headache. You might have a concussion but you're gonna live. Over 300 G's, and you really could die. The fakes register mid to high 900 G's, and our machines only go to mid to high 900. You're dead. You're dead so 60 people, likely statistically speaking have experienced that from this guy, so I felt bad, but at the same time...

Leah Evert-Burks: Public safety.

Andrew Love: Yes.

Leah Evert-Burks: Yeah. So, to step back for a minute, you just mentioned the testing requirements for safety for helmets. So the Consumer Product Safety Commission sets those standards based on health and safety of the writers, as you indicated. You also mentioned the National IPR Center, and I wanted to take a minute for listeners if you can explain what the IPR center is.

Andrew Love: Sure. National IPR Center is a collection of federal law enforcement agencies whose primary goal is to deal with counterfeit and intellectual property rights, and they take this with several different missions. One is the obvious one that I'm talking about right here right now which is enforcement of IPR issues that show up and also they're specialists in this, so they really understand the cases and how to bring them the prosecution, because most local law enforcement agencies, I mean like this particular case we're talking about happened in Louisville, Kentucky, you know, they weren't IPR specialists, so they use the experience of the IPR center to build the case. The other thing the IPR Center does is education. And that's a crucial part of their mission, and in the cycling world, I'll tell you, between, you know, the early 2000s, you know, 2010 to 2015 to now the change in cyclists attitudes has been huge. And that's partially due to the education that we've done, but cases like this have come to light and cases all over the world of people getting injured and hurt and seizures happening. But that's part of the National IPR Centers mission. And I feel honored to be collaborating with many of their staff. I could start naming the good folks there, but it would take too long. They're really, it's made me, and I don't say this lightly, more patriotic to work with good government folks who just, this is their career. I've never worked in government, never been a police officer. But these good folks, I mean just hats off.

Leah Evert-Burks: In our previous episode of Brand Protection Stories, we talked to a Special Agent, Brad Greenberg and, and he did talk about the importance of private, public partnership And I think that's what you're talking to with the IPR center. It definitely is a partnership, to be able to infiltrate crimes and deal with the safety issues with counterfeit goods.

Andrew Love: Yeah, I like, I like to say that the only chance we have versus the counterfeiters is what I call a triangle. At one end of the triangle, you have to have the brands, the other end, you have to have government and the third you have to have the e-commerce platforms and the technology professionals. If all three parts of that triangle work, you have you have a chance, but if you're missing one of those three parts, you're screwed, unfortunately. And this case had all three. This case, we're talking about had Specialized, me, as the brand, had government as National IPR Center, and had eBay and eBay's departments dedicated to fighting anti-counterfeit stuff are great. I can't say enough. They've been partners for a long time.

Leah Evert-Burks: Counterfeiting can be lucrative but in many jurisdictions prosecution results only in low penalties, therefore it attracts a wide spectrum of criminals from out-of-garage sellers to sophisticated networks funding terrorism. And what is counterfeited? Just about everything.

Leah Evert-Burks: So in talking about the arrest and the prosecution of this individual selling counterfeit helmets in Kentucky, obviously he was brought up on charges for counterfeiting, but there were also some unique counts, such as mail fraud, which dealt with his selling counterfeits over the internet. I also think that the timing of his trial really encouraged the court to consider counterfeiting, the dangers of counterfeiting, more seriously.

Andrew Love: Absolutely.

Leah Evert Burks: Can you talk to that?

Andrew Love: Yeah, I'm, I mean, again, things don't happen in a vacuum. And at that point in time again, they're all of these public safety issues. And one of the things that the court has to consider is awareness of the public, and you bring cases like this, I mean, yes it's violations of the law, but also because messages need to be sent. And I know the good folks in the Louisville, Kentucky's D.A. office were very aware of that, that, you know, you have to have to bring to light, these very severe public dangers when they happen. And so that's one of the reasons why they devoted the energy and

time and resources and people-time, I mean there's an enormous amount of energy from the staff that was put in there, because of the seriousness of this.

Leah Evert-Burks: Right. And it was actually a four day trial and you participated in testifying.

Andrew Love: Yes, and being cross examined by lawyers who are very good at their job was absolutely no fun, but I was prepared very well. And I have a moment I have to share. So I got asked, you know, very very genteel, you know, defense lawyer, and he was very very nice and he had me in the stand for a while and, you know, very very pleasant, but he had a, he had a knife he was going to stick into me and try to twist right at the end. And at the very end of all this, he wanted me to read out loud part of the eBay letter that they sent to people who haven't had a counterfeit, a counterfeit claim against him, so he had me read, he said, you know, "Sir, can you read exhibit dot, dot, dot and this paragraph?" And so, I had it in front of me, and I started reading it, which basically it was kind of an eBay, CYA disclaimer. And then he had me read those two sentences, and then he tried then to stop and close his thing. And I said, "Sir, you're not, can I read the rest of it because you're trying to have me say something inaccurate if you tried to stop me right there." And I had been really prepped really really well by the DA, and the folks that I was working with, so I knew what the next sentences after that said, so the judge said, "yes, sir. Please read that next sentence." So which I did which was then the actual teeth in eBay's policy. But again, it was just a fascinating experience and not one I'm eager to repeat, although I am very passionate about what I do, and trying to stop these fakes, and I mean like before this call, I'm you know, I'm on eBay this morning and I see, I see more of these fake helmets in the US. It's just the ongoing fight.

Leah Evert-Burks: So, the individual was prosecuted, but Andrew you didn't stop with that. You contacted eBay, thinking about the other purchasers that had purchased off of this eBay seller that had counterfeit helmets in their possession. What did you do with eBay, that's really a unique situation for a brand owner. What steps did you take?

Andrew Love: So you could frame this in a moral way, you know, if you see someone who's about to fall off a ladder, and you catch them. Yes, you do everything you can to catch them and I knew these hundreds of helmets were in the marketplace. So I begged eBay. Let me contact the buyers. And they said, "meh, meh, meh, okay." They were really worried about liability, and I don't blame them. You know we live in a litigious society. So, I contacted hundreds of people, and it was really interesting the responses. Like, 80% of them, or 70% of them were like, "oh thank you, thank you, thank you." 25% of them never responded, but the last 5% were like, "how dare you contact me? How did you get my information?" So, it was really interesting. It was really interesting.

Leah Evert-Burks: Your concern, obviously, was for the safety of consumers and of the bicyclist.

Andrew Love: And what was really interesting was we had--even though the templates had only been around for a few months--we had some injuries, we had concussions, we had people who were hurt. And you know, this was one guy who in a few months sold hundreds, and we had verified injuries. I mean, and one of the media things I've done on Good Morning America was one of those people, and he talked about his experience--sobering.

Leah Evert-Burks: Yes, sobering and, and I'm sure appreciated by the bicyclists out there.

Andrew Love: Yes.

Leah Evert-Burks: So one last question for you, Andrew, If one word could describe the case you discussed today, what would it be?

Andrew Love: I'm glad you gave me a heads up on that question because I thought about this a lot last night, and the one word I would use is Tolkien-esque and for any

fans of J.R. R Tolkien. Because when Frodo is handed, when Gandalf tells Frodo what he has, I mean, “Hey, dude. You have the One Ring. This is really bad. Frodo knows at that moment that his life has changed. He doesn't, of course, realize what's going to happen to him over the next couple of years. So my life absolutely changed in that moment in Colorado when I spotted the first fakes, and it changed again when the seller showed up in the United States, and we had this just work-speed case with the feds, and then has continued to change ever since. And I've been all over the world to China, Latin America, Canada, just all over the world because of this case and testified in front of Congress, twice--all things which if you told me that in, you know, 2013 when I went down this road, I would have not believed you. So Tolkien-esque of just, you know, here's this thing, you know, everything is going to change now, and even though I was consciously aware that moment over my breakfast, that everything was suddenly really different, because I had an inkling then. This suddenly brought counterfeits from the bad economic issue to the deadly issue. And I will say one of the, I won't say one of the problems with counterfeit cycling helmets, but if someone dies in a bike crash, the last thing anyone's going to ask is “oh my gosh, maybe they were in a counterfeit helmet. Maybe it's somehow their fault.” Everyone's in deep mourning and shock. So, you know, we have a lot of injuries that we've heard of and talked to riders but people who survived, right, but we don't hear the ones who died because that's not the question. That's not the appropriate question. Pharma has the same problem, by the way, I've talked to those folks. It's really awful. So Tolkien-esque of that there was a moment, “Hey, you got the One Ring. What are you going to do?” but then everything just cascades, and it's been a wild ride and continues to be one.

Leah Evert-Burks: Well thank you today Andrew for joining us for Brand Protection Stories, and really for doing the hard work and protecting the consumers and the cycling community.

Andrew Love: Well, thanks Leah. Thanks for all you do with the Brand Protection Professional and coordinating, and as you and I have jokingly talked about, herding the cats of this amazing industry, because the people who do brand protection, are a fascinating bunch. And thanks, thanks for all you do.

Leah Evert-Burks: A passionate advocate, I'm not surprised that Andrew chose a literary reference for his “one” word to describe this case. Andrew Love is a columnist for A-CAPP's Brand Protection Professional industry journal, leading conversations in “A View from the Field”, which always packs creative observations. He also holds a Masters of Fine Arts in English.

Leah Evert-Burks: In our next episode, listen to auto executive Rod Kinghorn talk about Operation Partsman - the largest non-drug seizure in FBI history, responsible for taking tens of thousands of dangerous counterfeit auto parts off the market.

Leah Evert-Burks: Thanks for joining us today for this edition of *Brand Protection Stories*, produced by the Center for Anti-Counterfeiting and Product Protection (or A-CAPP) @ Michigan State University in East Lansing, MI. Please visit us @ a-capp.msu.edu. A-CAPP is a non-profit organization founded in 2009. It is the first and only academic body focusing upon the complex global issues of anti-counterfeiting and product protection of all products, across all industries, in all markets. In addition to this series, we offer certificate courses in brand protection, applied education and academic courses, executive education, student internships, live summits and virtual events, ground-breaking research, and publish the quarterly digital industry journal, *The Brand Protection Professional*.

Leah Evert-Burks: If you're interested in sponsoring episodes of Brand Protection Stories please contact A-CAPP Assistant Director Kari Kammel at kkammel@msu.edu.

Transcript for Andrew Love On the Federal Helmet Case

Leah Evert-Burks: This is Leah Evert-Burks with A-CAPP. Until our next session, keep protecting your brands, and the world's consumers. Keep it real.